XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

(16)

मामला क्रमांक Cr.A. No. 703/2001 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

HIGH COURT OF CHHATTISGARH AT BILASPUR
Cr. A. No. 703/2001

APPELLANT Bisram, son of Yeradebe, aged 30 years, caste Muriya, Resident of village Bheja, P.S. Mardoom District Bastar, Jagdalpur (C.G.)

Versus

RESPONDENT The State of Chhattisgarh, through Police Station Mardoom, Distt. Jagdalpur (C.G.)

D.B. : Hon'ble Shri L.C. Bhadoo and
Hon'ble Shri Dhirendra Mishra, JJ.

10-7-2007

Shri Rakesh Pandey, counsel for the appellant.

Shri D.K. Gwalre, Additional Public Prosecutor, for the State/ respondent.

Heard.

Appeal is admitted for consideration.

Learned counsel for the appellant submits that the accused is in detention since 6-11-2000, therefore, the appeal itself may be heard finally, to which Shri Gwalre has no objection.

Therefore, the appeal is heard for final disposal.

ORAL JUDGMENT

The accused appellant has preferred this appeal against the judgment of conviction and order of sentence dated 20-4-

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(17)

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मामला क्रमांक Cr.A.No.703/2001 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

2001 passed by the 4th Addl. Sessions Judge, Bastar, Jagdalpur in S.T. No. 4/2001, whereby the learned Addl. Sessions Judge after holding the accused appellant guilty for offence under Section 302 of I.P.C. for committing murder of Jaisingh, sentenced him to undergo imprisonment for life, to pay a fine of Rs. 500/- and in default of payment of fine, to further undergo R.I. for three months.

2. Case of the prosecution, in brief, is that at about 6.00 p.m. in the evening of 6-11-2000 the accused attacked Jaisingh with axe near School Para of village Bheja and committed his murder. The matter was reported by P.W. 1 Vasudev, based on that, F.I.R. Ex. P-1 for commission of offence under Section 302 of I.P.C. was registered by Station House Officer, Police Station, Mardemu and left for the scene of occurrence. He prepared inquest Ex. P-2 on the body of Jaisingh. Weapon of offence – axe was seized under Ex. P-4. Body of Jaisingh was sent for post mortem examination to Primary Health Centre, Lohandiguda under Ex. P-6-A where P.W. 5 Dr. R. K. Nag conducted post mortem and prepared report Ex. P-6, in which he opined that cause of death was shock and haemorrhage on account of head injury and death was homicidal in nature. After completion of investigation, charge sheet was filed in the Court of Judicial Magistrate

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First Class, Jagdalpur who in turn committed the case to the Sessions Judge, Jagdalpur from where learned Addl. Sessions Judge received the case on transfer for trial.

3. The prosecution in order to establish the charge against the accused examined six witnesses. Statement of the accused was recorded under Section 313 of Cr.P.C. in which he denied the material appearing against him in the prosecution evidence and stated that he is innocent. He has been falsely implicated in the crime in question.

4. Learned Addl. Sessions Judge after hearing the learned counsel for the respective parties, convicted and sentenced the accused as aforementioned.

5. We have heard Shri Rakesh Pandey, Advocate on behalf of the appellant and Shri D.K. Gwalre, Addl. Public Prosecutor on behalf of the State.

6. Shri Pandey has not disputed the homicidal death of Jaisingh. Moreover, eye-witnesses namely P.W. 2 Padmini Bai and P.W. 3 Badruram have stated that they saw the accused attacking the deceased with the axe. Their evidence is corroborated by the evidence of P.W. 5 Dr. R.K. Nag who has stated that on 8-11-2000, he conducted post mortem on the body of Jaising, there were three incised wounds on the back side of neck. He has further stated that on opening the body,

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he saw that there was a fracture of right temporal bone. He has also stated that the death was homicidal in nature on account of head injury and haemorrhage. Therefore, in view of the above evidence, it is established that the death of Jaisingh was homicidal in nature.

7. As far as involvement of the accused in crime in question is concerned, we have scrutinized the evidence of eye-witnesses P.W. 2 Padmini Bai, wife of the deceased and P.W. 3 Badru Ram, who was washing hands and feet near the place of commission of crime. They have categorically stated that at the time, the deceased was going to his field, the accused met him on the way, attacked with the axe on the head, as a result of which, Jaisingh sustained injuries, fell down and died spontaneously. Wife of the deceased P.W. 2 Padmini Bai has further stated that in fact they provided a land to the accused for his residence and as the accused had stolen their carpenter axe, when they came to know about this fact, they brought back the carpenter axe from the residence of the accused, which enraged the accused and that is why, he attacked her husband. She has categorically stated that the offence was witnessed by Badru Ram as he was washing his hands and feet near the place of occurrence. P.W. 3 Badaru Ram has corroborated the evidence of P.W. 2

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Padmini Bai and has stated that he saw the accused attacking the deceased with the axe. In cross-examination of these two witnesses, the defence has not been able to elicit any circumstance which makes the evidence of these two witnesses unreliable or untrustworthy. There is nothing on record which suggests that the evidence of these two witnesses suffers from any infirmity and there is no reason about these witnesses to implicate the accused in a false case, that too in such a heinous case. In fact, from the evidence of Padmini Bai, it is clear that the accused was not having any place to reside, therefore, they provided him a land for his residence and on the contrary, the accused became so ungrateful to the family that he had taken the life of a person who gave him shelter.

8. For the foregoing reason, we do not find any illegality or infirmity in the impugned judgment of the trial Court convicting the accused under Section 302 if I.P.C. and sentencing him under that section.

9. The appeal being devoid of substance deserves to be dismissed and it is hereby dismissed.

Sd/-
L.C. Bhadoo
Judge

Sd/-
Dhirendra Mishra
Judge

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